

The Gazette of India

EXTRAORDINARY PART II—Section 1 PUBLISHED BY AUTHORITY

No 16] NEW DELHI, WEDNESDAY, MAY 13, 1959/VAISAKHA 23, 1881

MINISTRY OF LAW (Legislative Department)

New Delhi, the 13th May, 1959/Vaisakha 23, 1881 (Saka)

The following Act of Parliament received the assent of the President on the 12th May, 1959, and is hereby published for general information:—

THE BENGAL FINANCE (SALES TAX) (DELHI AMENDMENT) ACT, 1959

No. 20 OF 1959

[12th May, 1959]

An Act further to amend the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union territory of Delhi.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bengal Finance (Sales Tax) (Delhi Amendment) Act, 1959. Short title
and com-
mencement.

(2) It shall come into force on such date as the Chief Commissioner, Delhi, may, by notification in the Official Gazette, appoint.

Bengal Act VI of 1941. 2. Throughout the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union territory of Delhi (hereinafter referred to as the principal Act), unless otherwise expressly stated,— Amendment
of reference
to State and
State Gov-
ernment.

(a) for the word “State” except where it occurs in the expression “State Government”, the words “Union territory” shall be substituted;

(b) for the words “State Government”, except in clause (b) of sub-section (3) of section 25, the words “Central Government” shall be substituted.

Amendment
of section 2.

3. In section 2 of the principal Act,—

(a) clause (b) shall be omitted;

(b) in clause (d),—

(i) after the words “does not include”, the word “newspapers” shall be inserted;

(ii) the *Explanation* shall be omitted;

(c) for clause (g), the following clause shall be substituted, namely:—

‘(g) “sale”, with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or for deferred payment or for any other valuable consideration, and includes a transfer of goods on hire-purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of or a charge or pledge on goods.

Explanation.—A sale or purchase of goods shall be deemed to take place inside the Union territory of Delhi if the goods are within that territory—

(i) in the case of specific or ascertained goods, at the time the contract of sale is made; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether assent of the other party is prior or subsequent to such appropriation;’

(d) for clause (h), the following clause shall be substituted, namely:—

‘(h) “sale price” means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged;’.

Amendment
of section 4.

4. In section 4 of the principal Act,—

(a) in sub-section (1),—

(i) the first proviso shall be omitted;

(ii) in the second proviso, the word “further” shall be omitted and for the word “Schedule”, the words “Second Schedule” shall be substituted;

(b) after sub-section (4A), the following sub-section shall be inserted, namely:—

74 of 1956.

“(4B) Every dealer shall, notwithstanding that he is not liable to pay tax under any of the sub-sections (1) to (4A), be liable to pay tax under this Act so long as he is registered under the Central Sales Tax Act, 1956, on all sales effected by him or on his behalf within the Union territory of Delhi on or after the date of his liability or the date of his registration, whichever is earlier, under the Central Sales Tax Act aforesaid.”;

(c) for clause (a) of sub-section (5), the following clause shall be substituted, namely:—

“(a) in relation to any dealer who imports for sale any goods into the Union territory of Delhi or manufactures or produces any goods for sale, regardless of the value of the goods imported, manufactured or produced, ten thousand rupees;”.

5. In section 5 of the principal Act,—

Amendment
of section 5.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The tax payable by a dealer under this Act shall be levied,—

(a) in the case of taxable turnover in respect of the goods specified in the First Schedule, at the rate of seven *naye paise* in the rupee;

(b) in the case of taxable turnover in respect of the goods specified in the Third Schedule, at the rate of two *naye paise* in the rupee;

(c) in the case of taxable turnover in respect of any other goods, at the rate of four *naye paise* in the rupee:

Provided that the Chief Commissioner, with the previous approval of the Central Government, may, by notification in the Official Gazette, add to, or omit from, or otherwise amend the First and the Third Schedules:

Provided further that if in respect of any goods or class of goods the Chief Commissioner is of opinion that it is expedient in the interest of the general public so to do, the Chief Commissioner, with the previous approval of the Central Government, may, by notification in the Official Gazette, direct that the tax in respect of the taxable turnover of such goods or class of goods shall, subject

to such conditions as may be specified, be levied at such modified rate not exceeding the rate applicable under this sub-section as may be specified in the notification.”;

(b) in sub-section (2),—

(1) for sub-clause (ii) of clause (a), the following sub-clause shall be substituted, namely:—

“(ii) sales to a registered dealer—

of goods of the class or classes specified in the certificate of registration of such dealer, as being intended for re-sale by him, or for use by him as raw materials in the manufacture of goods for sale; and

of containers or other materials for the packing of goods of the class or classes so specified for sale:

Provided that in the case of such sales a declaration duly filled up and signed by the registered dealer to whom the goods are sold and containing the prescribed particulars on a prescribed form obtainable from the prescribed authority is furnished in the prescribed manner by the dealer who sells the goods:

Provided further that where any goods specified in the certificate of registration are purchased by a registered dealer as being intended for re-sale by him or for use by him as raw materials in the manufacture of goods for sale, but are utilised by him for any other purpose, the price of the goods so purchased shall be allowed to be deducted from the gross turnover of the selling dealer but shall be included in the taxable turnover of the purchasing dealer;”;

(2) the word “and” at the end of clause (a), and clause (b) shall be omitted.

Insertion of new sections 5A and 5B. 6. After section 5 of the principal Act, the following sections shall be inserted, namely:—

Power of Chief Commissioner to prescribe points at which goods may be taxed.

Burden of proof.

“5A. Notwithstanding anything to the contrary in this Act, the Chief Commissioner may, by notification in the Official Gazette, specify the point in the series of sales by successive dealers at which any goods or class of goods may be taxed.

5B. The burden of proving that in respect of any sale effected by a dealer he is not liable to pay tax under this Act shall lie on him.”.

7. In section 8 of the principal Act, in sub-section (1), for the word "Schedule", the words "Second Schedule" shall be substituted. Amendment of section 8.

8. In section 8B of the principal Act, in sub-section (1), the brackets and letter "(a)" and the words, brackets and letter "or (b) executing contracts the value of which is likely to exceed thirty thousand rupees per year," shall be omitted. Amendment of section 8B.

9. After section 10 of the principal Act, the following shall be inserted, namely:— Insertion of new section 10A.

"10A. No person who is not a registered dealer shall collect in respect of any sale by him of goods in the Union territory of Delhi any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made thereunder." Collection of tax only by registered dealers.

10. In section 11 of the principal Act,—

(a) to sub-section (2a), the following proviso shall be added, namely:— Amendment of section 11.

"Provided that where such assessment is made in consequence of or to give effect to any order of an appellate or revisional authority or of a court, the period of four years or six years, as the case may be, shall be reckoned from the date of such order.";

(b) in sub-section (3), after the words "under any of the provisions of this section", the words, figures and letter "or section 22A" shall be inserted;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3a) When a dealer is in default in making a payment of the tax, the Commissioner or any person appointed to assist him under sub-section (1) of section 3, may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the dealer by way of penalty."

11. In sub-section (1) of section 21 of the principal Act, for the words "such dealer may, by application in writing accompanied by a fee of one hundred rupees," the words "such dealer or the Commissioner may, by application in writing, and accompanied in the case of an application by a dealer by a fee of one hundred rupees," shall be substituted. Amendment of section 21.

Amendment
of section
21A.

12. Section 21A of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit, any books of account or other documents produced before it, in any proceedings under this Act:

Provided that a person appointed to assist the Commissioner under sub-section (1) of section 3 shall not—

(a) impound any books of account or other documents without recording his reasons for so doing; or

(b) retain in his custody any such books or documents for a period exceeding thirty days without obtaining the approval of the Commissioner therefor.”.

Amendment
of section 22.

13. In sub-section (1) of section 22 of the principal Act,—

(a) after clause (d), the following clause shall be inserted, namely:—

“(dd) contravenes the provisions of section 10A; or”;

(b) in the proviso, after the word and figures “section 11”, the words, figures and letter “or section 22A” shall be inserted.

Insertion of
new section
22A.

14. After section 22 of the principal Act, the following section shall be inserted, namely:—

Penalty for
concealment
of sales or
furnishing
inaccurate
particulars
or making
false repre-
sentations.

“22A. (1) If the Commissioner or any person appointed under sub-section (1) of section 3 to assist him, in the course of any proceedings under this Act is satisfied that a dealer has concealed the particulars of his sales or has furnished inaccurate particulars of his sales and has thereby returned figures below the real amount, he may, after giving the dealer a reasonable opportunity of being heard, direct that the dealer shall, in addition to the tax payable by him under this Act, pay, by way of penalty, a sum not exceeding one and a half times the amount of tax which would have been avoided if the figures returned by the dealer were accepted as correct.

(2) If any person purchasing goods is guilty of an offence under clause (c) or clause (d) of sub-section (1) of section 22, the authority which granted to him or as the case may be, is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the tax which

would have been levied under this Act in respect of the sale to him of the goods, if the offence had not been committed.”.

15. After section 23 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 23A.

“23A. (1) The Chief Commissioner may, by notification in the Official Gazette, set up check-posts or barriers at any place in the Union territory of Delhi with a view to preventing evasion of sales tax and other dues payable under this Act.

Setting up of check-posts and barriers.

(2) Every person transporting such goods as may be notified shall, at any check-post or barrier referred to in sub-section (1), file before such officer as may be authorised by the Chief Commissioner in this behalf a declaration in such form and in such manner as may be prescribed.

(3) The officer authorised by the Chief Commissioner under sub-section (2) or any other officer who may be authorised in this behalf may, for the purpose of satisfying himself that the provisions of sub-section (2) are not being contravened, and subject to such restrictions as may be prescribed, intercept and search any vehicle which may be suspected of contravening the said provisions.”.

16. In section 26 of the principal Act,—

Amendment of section 26.

(i) in sub-section (2), clauses (a), (aa) and (c) shall be omitted;

(ii) after sub-section (3), the following sub-section shall be added, namely:—

“(4) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.”.

17. For section 27 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 27.

“27. Nothing in this Act or the rules made thereunder shall be deemed to impose, or authorise the imposition of a tax on any sale or purchase of any goods when such sale or purchase takes place—

Savings.

(i) in the course of inter-State trade or commerce;

(ii) outside the Union territory of Delhi; or

(iii) in the course of import of the goods into, or export of the goods out of, the territory of India.

Explanation.—Sections 3, 4 and 5 of the Central Sales Tax Act, 1956, shall apply for determining whether or not a particular sale or purchase takes place in the manner indicated in clause (i), clause (ii) or clause (iii).". 4 of 1956.

Insertion of
new Third
Schedule. 18. After the Second Schedule to the principal Act, the following Schedule shall be inserted, namely:—

“THE THIRD SCHEDULE

[See section 5(1) (b)]

1. Coal including coke in all its forms.
2. Cotton as defined in section 14 of the Central Sales Tax Act, 1956. 74 of 1956.
3. Iron and steel as defined in section 14 of the Central Sales Tax Act, 1956. 74 of 1956
4. Jute as defined in section 14 of the Central Sales Tax Act, 1956. 74 of 1956.
5. Oil-seeds as defined in section 14 of the Central Sales Tax Act, 1956.”. 74 of 1956.

G. R. RAJAGOPAUL, Secy.